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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,733	08/14/2001	Matthew Edward Volpenhein	8206M	9024

27752 7590 01/29/2004

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/929,733

Applicant(s)

VOLPENHEIN ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 29-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

Art Unit: 1751

***Election/Restriction***

1. Applicant's election of Group I, claims 1-28 and 40 in the response dated October 29, 2003 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 112***

2. Claims 1 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in the recital of "material" in line 1 because it is not clear what this material encompasses. In addition, the phrase "the chemical composition" in line lacks antecedent basis in the claim.

Claim 25 is indefinite because "the cellulosic material" in line 1 lacks support with respect to claim 19.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1751

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7-19, 22-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. (WO 98/44185), hereinafter "Rogers".

Rogers teaches an article for treating fabrics in a clothes dryer which comprises: a) an absorbent carrier substrate; b) a liquid cleaning/refreshment composition releasably absorbed in said substrate; said substrate being wholly or partly covered by (c) a fibrous coversheet having a minimum thickness (uncompressed) of about 8 mils (0.2 mm) (see abstract). The coversheets are constructed from hydrophobic fibers (see page 5, last paragraph) such as polyethylene or nylon (see page 6, lines 5, 19-22) and can be ring rolled or crimped to provide three dimensional bulk (see page 6, second line from last). In Example 1, Rogers teaches a carrier sheet of HYDRASPUN®, which is a blend of cellulosic, rayon, polyester and optional bicomponent fibers (see page 9, lines 3-7), covered on both sides with a topsheet and a bottomsheets of 8 mil Reemay fabric coversheet material, into which is poured a liquid fabric cleaning/refreshment product comprising water and an ethoxylated nonionic surfactant, wherein holes are punched in the carrier sheet in order to minimize its tendency to re-fold in-use (see page 42, last four lines; entire page 43). Rogers teaches the limitations of the instant claims. Hence, Rogers anticipates the claims.

Art Unit: 1751

5. Claims 1-4, 7-8, 14-17 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Young et al. (US Patent No. 5,630,848), hereinafter "Young".

Young teaches a home dry cleaning article comprising a hydroentangled carrier substrate comprising a mixture of synthetic and natural types of fibers (cellulosic, rayon, polyester) and a cleaning composition comprising water; etherified propanol solvent, optionally a deterative surfactant (see abstract; col. 2, lines 40-56), such as C<sub>12</sub>-C<sub>16</sub> ethoxylated (EO 0.5-10 avg) alcohols (see col. 7, lines 25-26). Young also teaches that the hydroentangled materials used to form the carrier sheet do not tend to re-fold during use, and thus do not require perforations (although, of course, perforations may be used, if desired) (see col. 4, lines 16-32). In Example 1, Young teaches a dry cleaning article in sheet form which is assembled using a sheet substrate and a cleaning composition wherein the sheet remains in the desired unfolded configuration (see col. 8, lines 35-67). Young teaches the limitations of the instant claims. Hence, Young anticipates the claims.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 1751

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 5-6, 20, 21 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers or Young as applied to the above claims.

Rogers or Young teaches the features as described above. Rogers or Young, however, fails to specifically disclose (1) the carrier sheet being prepared by the recited technology in claims 5-6, and (2) the coversheet comprising ink, paint or consumer signal component.

With respect to difference (1), it should be noted that the present claims are product-by-process claims, hence, any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the

Art Unit: 1751

examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324.

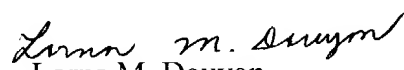
With respect to difference (2), it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate consumer signal in the form of ink or paint in the coversheet of Rogers because every article of commerce is provided with an indicia in these forms.

9. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. The references are considered cumulative to or less material than those discussed above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

January 9, 2004

  
Lorna M. Douyon  
Primary Examiner  
Art Unit 1751